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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/512,115	10/21/2004	Markus Herper	101194-90	2349
27387 7590 09/19/2007 NORRIS, MCLAUGHLIN & MARCUS, P.A. 875 THIRD AVE 18TH FLOOR NEW YORK, NY 10022			EXAMINER WILLIAMS, MARK A	
			ART UNIT 3676	PAPER NUMBER
			MAIL DATE 09/19/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/512,115

Applicant(s)

HERPER

Examiner

Mark A. Williams

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3676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 06 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1 and 3-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 3-10 is/are allowed.
- 6) ☐ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lautenschlager, US Patent 4,251,900, in view of Beneke et al, US Patent 5,012,551.

Lautenschlager provides a universal joint hinge for the articulation of a door leaf on the carcass of a piece of furniture with a mounting plate which is disposed on the supporting wall of the carcass and on which a carcass mounting part ²⁰~~28~~ constructed as an elongated support arm is connected to a universal joint mechanism and the door leaf mounting part is constructed as a hinge cup 24, wherein the universal joint mechanism has two joint arms (28, 26) which, as best understood, in their central region are pivotable relative to one another like scissors and of which each one is pivotable at one of its ends about a fixed axis on one of the mounting parts and at the respective other end is attached to the respective

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other mounting part so as to be variable in position along a predetermined space curve extending in a plane lying at right angles to the pivot axis of the hinge (see figure 3), characterized in that the joint arm 28 which is mounted so as to be pivotable about a fixed axis on or in the door leaf mounting part is mounted at its opposite end coupled to the carcass mounting part so as to be pivotable about a fixed axis (44, 54) on or in the end region of the carcass mounting part inside the carcass, that the portion of this joint arm which is positioned between the region which is pivotably mounted on the carcass mounting part and the region which supports the joints arms so that they pivot approximately centrally like scissors comprises two joint arm portions ^{38, 39 (3:63-67) 8} (38, 20) which are longitudinally displaceable relative to one another by a predetermined amount. The joint arm portions which are displaceable relative to one another such that they inherently engage telescopically, since one is longitudinally received within the other.

Lautenschlager provides the claimed invention except explicitly teaching a damping device which is effective at least during a part of the displacement movement of the joint arm portions relative to one another is provided between the two joint arm portions, as claimed. However, it is well known in the art to use dampening means in such a hinge arrangement. Beneke provides dampening means 10 in a similar hinge arrangement for providing a desired dampening action.

It would have been obvious for one of ordinary skill in the art to have included in the design of Lautenschlager such a modification, for the purpose of providing a desired dampening action.

Response to Arguments

3. Applicant's arguments filed 1/8/07 have been fully considered but they are not persuasive.

Applicant argues that joint arm portions which are displaceable relative to one another such that they engage telescopically are not provided by the applied art. The examiner disagrees since there is relatively sliding of the two joint arms with one received within the other. Telescope is defined as "to slide or pass one part within another"; the applied art certainly meets this definition. Applicant has not sufficiently distinguished his claimed invention over the applied art of record.

Applicant argues that the applied references are not combinable. However, it is still the position of the examiner that to merely provide means for dampening motion of a hinge device such as that of Lautenschlager is obvious, and has been established in the art. Beneke et al. provides an example of such a dampening device in a similar hinge application. To include a similar type of dampening

device in the design of Lautenschlager for the purpose of buffering, as known in the art, would have been obvious.

Allowable Subject Matter

4. Claims 3-10 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however,

will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark A. Williams whose telephone number is (571) 272-7064. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jennifer Gay can be reached on (571) 272-7029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Mark Williams
9/11/07



JENNIFER H. GAY
SUPERVISORY PATENT EXAMINER